

**MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY
HAZARDOUS AND NONHAZARDOUS SOLID WASTE
APPLICANT DISCLOSURE REGULATIONS**

- 1.1. Scope and Authority. These Regulations are promulgated by the Mississippi Commission on Environmental Quality pursuant to Mississippi Code Annotated section 17-17-501 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, et seq. [Miss. Laws, 1991, ch. 583, Miss. Laws, 1992, ch. 583 and Miss. Laws, 1994, Ch. 540.], Mississippi Code Annotated section 17-17-27 (Supp. 1993) and Mississippi Code Annotated section 49-17-17 (Supp. 1993), for the purpose of implementing the provisions of those laws. These Regulations may be codified by the Mississippi Department of Environmental Quality as they are here presented or in such other order or form [i. e., number or letter designations] as the Mississippi Department of Environmental Quality, in its discretion, may decide. Please note: other regulations apply to persons seeking issuance, reissuance or transfer of permits to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.
- 1.2. Title and suggested citation form. These Regulations shall be entitled Mississippi Commission on Environmental Quality Hazardous and Nonhazardous Solid Waste Applicant Disclosure Regulations. The suggested citation form is Miss. CEQ Disclosure Reg. section _____ (1994). The Mississippi Department of Environmental Quality, in its discretion, may suggest an alternate citation form to conform with its regulation codification system.
- 1.3. Definitions. The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise. Terms not defined herein shall have their ordinary meanings unless such terms have a specialized meaning within the nonhazardous solid waste and hazardous waste field. Terms having such a specialized meaning are to be given that specialized meaning unless otherwise defined.
 - a. "Act" means Mississippi Code Annotated section 17-17-501 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, et seq. [Miss. Laws, 1991, ch. 583, Miss. Laws, 1992, ch. 583 and Miss. Laws, 1994, Ch. 540.].
 - b. Applicant" means any person (except a public agency) applying for a permit to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility. If a public agency applies for a permit and proposes to operate a facility by contract, the contractor shall also

be required to file a disclosure statement as described in Miss. Code

Ann. Section 17-17-503 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, and the Permit Board shall evaluate such statement as described in Miss. Code Ann. Section 17-17-505 (Supp. 1993).

- c. "Application" means an application (other than an application submitted by a public agency) for the issuance, reissuance or transfer of a permit to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.
- d. "Business concern" means any corporation, association, firm, partnership, trust, joint venture or other form of commercial organization.
- e. "Chartered lending institution" means any bank or banking institution chartered under the laws of the United States or of any state.
- f. "Commercial hazardous waste management facility" means any facility engaged in the storage, treatment, recovery or disposal of hazardous waste for a fee and which accepts hazardous waste from more than one (1) generator.
- g. "Commercial nonhazardous solid waste management facility" means any facility engaged in the storage, treatment, processing or disposal of nonhazardous solid waste for compensation or which accepts nonhazardous solid waste from more than one (1) generator not owned by the facility owner.
- h. "Commission" means the Mississippi Commission on Environmental Quality.
- i. "Debt liability" means the total actual debt of an applicant business concern or any disclosed business concern including, but not limited to, bonds, debentures, notes, surety agreements, mortgages and loans of any kind, secured or unsecured, and other similar debt instruments.
- j. "Department" means the Mississippi Department of Environmental Quality.
- k. "Disclosure Statement" means the signed and sworn statement required by Miss. Code Ann. Section 17-17-503 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, and section 2 of these Regulations to be filed by each applicant at the time the application is filed, together with any other information required by the Permit Board to be furnished by the Applicant pursuant to these regulations.
- l. "Enforcement Action" means any action that is pending or has concluded in a finding of violation or entry of a consent agreement resulting from an alleged violation of any (1) environmental ordinance, regulation, rule or statute, (2)

environmental permit or (3) order issued to prohibit, control or abate an environmental problem.

- m. "Equity" means any ownership interest of an applicant or any disclosed person in a sole proprietorship or business concern including, but not limited to, the shares of a partnership and stock in a corporation.
- n. "Individuals related within the third degree" means individuals related within the third degree according to the Civil Law. Such relatives would include parents, children, grandparents, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces, great-grandparents and great-grandchildren of any disclosed individual. Such individuals related within the third degree must be disclosed if together they own a cumulative of five percent (5%) or more of the equity in or debt liability of a disclosed publicly traded corporation except when the disclosed public corporation is an investment company which is publicly traded or a chartered lending institution.
- o. "Investment Company which is publicly traded" means a business concern, including a mutual fund, which engages primarily in the business of investing, reinvesting or trading in stock and securities and which uses its capital to invest in other companies. The equity stock and securities of an investment company which is publicly traded are registered under federal and state securities laws and publicly traded on a national or regional stock or securities exchange.
- p. "Key employee" means any person employed by an applicant in a management capacity and empowered to make operational or financial management decisions with respect to nonhazardous solid waste or hazardous waste management operations of the business concern including, but not by way of limitation,
 - (1) the officer or other employee of the applicant located on and in charge of operations on the site that is the subject of the application and all persons in the applicant's chain of command above him [i. e., his supervisor, his supervisor's supervisor, etc.]; and,
 - (2) contractors, consultants, brokers or other persons performing duties or functions commonly performed in the industry by employees exercising discretion over the operations of the applicant, but shall not include employees primarily engaged in the physical or mechanical treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.
- q. "Parent business concern" means a business concern that holds five percent (5%) or more of the debt or equity in the

applicant business concern.

- r. "Permit" means a permit to construct and/or operate a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.
- s. "Permit Board" means the Mississippi Environmental Quality Permit Board.
- t. "Person" means (unless stated otherwise) any individual, trust, firm, joint stock company, business concern, public or private corporation (including a government corporation), partnership, association, state or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision or the United States or any officer or employee thereof.
- u. "Public agency" means any incorporated city or town, county, political subdivision, governmental district or unit, public corporation, public institution of higher learning, community college district, planning and development district or governmental agency created under the laws of the state.
- v. "Publicly traded corporation" means a business concern, the equity securities of which are registered under federal and state securities laws and publicly traded on a national or regional stock or securities exchange.
- w. "Sister business concern" means a business concern with which the applicant shares a common parent business concern, and which is located in the United States of America.
- x. "Staff" means employees of the Mississippi Department of Environmental Quality.
- y. "Subsidiary business concern" means a business concern in which the applicant holds five percent (5%) or more of the business concern's debt or equity.
- z. "Transfer" means
 - (1) any sale, conveyance or assignment of the rights held by any person in any permit issued pursuant to these Regulations, except to applicant's parent business concern or wholly-owned subsidiary business concern for which all information required by these regulations has been previously disclosed in a disclosure statement pursuant to these regulations;
 - (2) any change of more than fifty percent (50%) of the

equity ownership of the applicant over any period of time which results in a different majority ownership from that at the time of the last disclosure under these Regulations or the last action of the Permit Board regarding the permit (any person may be a new majority owner for purposes of this provision); or

- (3) an action by the Permit Board modifying a permit or revoking and reissuing a permit to reflect the changes in ownership described in subparts (1) and (2), above.

2.1. Filing of Disclosure Statement.

- a. Every applicant (other than a public agency) for issuance, reissuance or transfer of a permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility shall file with the Permit Board at the time the application is filed a disclosure statement. All applicable information requested in the disclosure statement must be provided. If any questions in the disclosure statement are not applicable to the applicant, the applicant must so indicate.

- (1) Public Agencies. If a public agency applies for a permit, the Permit Board shall consider the performance history of that agency as prescribed by Mississippi Code Annotated section 17-17-27 (Supp. 1993).
- (2) Contractors for Public Agencies. If a public agency applies for a permit and proposes to operate a facility by contract with an individual or a business concern, such individual or business concern shall be required to file a disclosure statement as described in Miss. Code Ann. section 17-17-503 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, and as provided by these Regulations. The Permit Board shall evaluate such statement as described in Miss. Code Ann. 17-17-505 (Supp. 1993) and in Section 3.1, et seq. of these Regulations.

- b. Where to File Disclosure Statements.

- (1) An applicant seeking a permit to construct and/or operate a commercial nonhazardous solid waste management facility shall file a disclosure statement with the Head of the Office of Pollution Control, Office of Pollution Control, Mississippi Department of Environmental Quality, 2380 U. S. Highway 80 West, P.O. Box 10385, Jackson, Mississippi 39289-0385 [or current address].

- (2) An applicant seeking a permit to construct and/or operate a commercial hazardous waste management facility shall file a disclosure statement with the Head of the Office of Pollution Control, Office of Pollution Control, Mississippi Department of Environmental Quality, 2380 U. S. Highway 80 West, P.O. Box 10385, Jackson, Mississippi 39289-0385 [or current address].

2.2. Content of Disclosure Statement Forms. The disclosure statement shall be filed on forms supplied by the Department and shall contain the following information:

- a. Applicant Identity. A description of the business structure of the entity making the application, i.e., whether the applicant is an individual, a partnership, a corporation or some other type of business concern.
- b. Applicant Information.
 - (1) Individual. If the applicant is an individual, applicant's:
 - (a) Full name;
 - (b) Business address;
 - (c) Date of birth;
 - (d) Social security number;
 - (e) Business telephone number.
 - (2) Business Concern. If the applicant is a business concern, applicant's:
 - (a) Full name;
 - (b) Business address;
 - (c) Date of establishment;
 - (d) Federal employer identification number;
 - (e) Business telephone number.
- c. Business Concern Applicant's Personnel. For each officer, director, partner or key employee of the applicant, such person's:

- (1) Full name;
 - (2) Business address;
 - (3) Date of birth;
 - (4) Social security number;
 - (5) Business telephone number;
 - (6) Position, i.e., officer, director, partner, key employee.
- d. Holders of Equity or Debt Liability in Business Concern Applicants.
- (1) Business Concern Applicant that is not a Publicly Traded Corporation.
 - (a) If the business concern applicant is not a publicly traded corporation, for each person other than a business concern holding an equity interest in such applicant business concern, such person's:
 - (i) Full name;
 - (ii) Business address;
 - (iii) Date of birth;
 - (iv) Social security number;
 - (v) Business telephone number;
 - (vi) Percentage of equity held.
 - (b) If the business concern applicant is not a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution) which is an equity holder of the applicant business concern, such business concern's:
 - (i) Full name;
 - (ii) Business address;
 - (iii) Date of establishment;
 - (iv) Federal employer identification number;
 - (v) Business telephone number;
 - (vi) Percentage of equity held.
 - (c) If the business concern applicant is not a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding equity in such applicant business concern, such investment company's or lending institution's:
 - (i) Full name;
 - (ii) Business address;
 - (iii) Business telephone number;
 - (iv) Percentage of equity held.

- (d) If the business concern applicant is not a publicly traded corporation, a listing of all persons or business concerns holding debt liability in such applicant business concern shall be provided with such listing to include the following information for such persons or business concerns:
 - (i) Full name;
 - (ii) Business address;
 - (iii) Federal employer identification number, if applicable;
 - (iv) Amount of debt liability held in U.S. Dollars; and
 - (v) Percentage of the total debt liability held.

For the purposes of Section 2.2.d.(1)(d), persons and business concerns holding debt liability in the applicant business concern and disclosed pursuant to Section 2.2.d.(1)(d) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

(2) Publicly Traded Corporation Applicant.

- (a) If the applicant business concern is a publicly traded corporation, for individuals related within the third degree holding a cumulative of five percent (5%) and for any other person (other than a business concern) holding more than five percent (5%) of the equity in such publicly traded corporation, such person's:
 - (i) Full name;
 - (ii) Business address;
 - (iii) Date of birth;
 - (iv) Social Security number;
 - (v) Business telephone number;
 - (vi) Percentage of equity held.
- (b) If the applicant business concern is a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution holding equity or debt liability of a business concern disclosed in applicant's disclosure statement) holding more than five percent (5%) of the equity in such publicly traded corporation, such business concern's:
 - (i) Full name;

- (ii) Business address;
 - (iii) Date of establishment;
 - (iv) Federal employer identification number;
 - (v) Business telephone number;
 - (vi) Percentage of equity held.
- (c) If the applicant business concern is a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding more than five percent (5%) of the equity in such publicly traded corporation, such investment company's or lending institution's:
- (i) Full name;
 - (ii) Business address;
 - (iii) Business telephone number;
 - (iv) Percentage of equity held.
- (d) If the applicant business concern is a publicly traded corporation, a listing of all individuals or business concerns holding more than five percent (5%) or individuals related within the third degree holding a cumulative of five percent (5%) or more of the debt liability in the applicant business concern shall be provided with such listing to include the following information for such persons or business concerns:
- (i) Full name;
 - (ii) Business address;
 - (iii) Federal employer identification number, if applicable;
 - (iv) Amount of debt liability held in U.S. Dollars; and
 - (v) Percentage of the total debt liability held.

For the purposes of Section 2.2.d.(2)(d), persons and business concerns holding debt liability in the applicant business concern and disclosed pursuant to Section 2.2.d.(2)(d) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

e. Disclosed Business Concern Information.

- (1) Officers, Directors, and Partners. For each officer, director or partner of any business concern disclosed in the statement supplied pursuant to these Regulations (other than an investment company which is publicly traded or a chartered lending institution), such

person's:

- (a) Full name;
- (b) Business address;
- (c) Date of birth;
- (d) Social security number;
- (e) Business telephone number;
- (f) Position, i. e., officer, director, partner, key employee as defined in Section 1.3(p) of these Regulations.
- (g) Employer's name, company name or business name.

(2) Equity and Debt Liability Holders.

- (a) Disclosed Business Concern that is not a Publicly Traded Corporation.

- (i) If the business concern applicant is not a publicly traded corporation, for each person other than a business concern holding equity in the disclosed business concern, such person's:

- (a) Full name;
 - (b) Business address;
 - (c) Date of birth;
 - (d) Social security number;
 - (e) Business telephone number;
 - (f) Percentage of equity held.

- (ii) If the disclosed business concern is not a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution) which is an equity holder of the disclosed business concern, such business concern's:

- (a) Full name;
 - (b) Business address;
 - (c) Date of establishment;
 - (d) Federal employer identification number;
 - (e) Business telephone number;
 - (f) Percentage of equity held.

- (iii) If the disclosed business concern is not a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding equity in such disclosed business

concern, such investment company's or lending institution's:

- (a) Full name;
 - (b) Business address;
 - (c) Business telephone number;
 - (d) Percentage of equity held.
- (iv) If the disclosed business concern is not a publicly traded corporation, a listing of all persons or business concerns holding debt liability in such disclosed business concern shall be provided with such listing to include the following information for such persons or business concerns:
- (a) Full name;
 - (b) Business address;
 - (c) Federal employer identification number, if applicable;
 - (d) Amount of debt liability held in U.S. Dollars; and
 - (e) Percentage of the total debt liability held.

For the purposes of Section 2.2.e.(2)(a)(iv), persons and business concerns holding debt liability in disclosed business concerns and disclosed pursuant to Section 2.2.e.(2)(a)(iv) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

(b) Publicly Traded Corporation Disclosed Business Concern.

- (i) If the disclosed business concern is a publicly traded corporation, for individuals related within the third degree holding a cumulative of five percent (5%) and for any other person (other than a business concern) holding more than five percent (5%) of the equity in such publicly traded corporation, such person's:
- (a) Full name;
 - (b) Business address;
 - (c) Date of birth;
 - (d) Social Security number;

- (e) Business telephone number;
 - (f) Percentage of equity held.
- (ii) If the disclosed business concern is a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution holding equity in a business concern disclosed in applicant's disclosure statement) holding more than five percent (5%) of the equity in such publicly traded corporation, such business concern's:
 - (a) Full name;
 - (b) Business address;
 - (c) Date of establishment;
 - (d) Federal employer identification number;
 - (e) Business telephone number;
 - (f) Percentage of equity held.
- (iii) If the disclosed business concern is a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding more than five percent (5%) of the equity in such publicly traded corporation, such investment company's or lending institution's:
 - (a) Full name;
 - (b) Business address;
 - (c) Business telephone number;
 - (d) Percentage of equity held.
- (iv) If the disclosed business concern is a publicly traded corporation, a listing of all individuals and business concerns holding more than five percent (5%) or individuals related within the third degree holding a cumulative of five percent (5%) or more of the debt liability in the disclosed business concern shall be provided with such listing to include the following information for such persons or business concerns:
 - (a) Full name;
 - (b) Business address;
 - (c) Federal employer identification

- number, if applicable;
- (d) Amount of debt liability held in U.S. Dollars; and
- (e) Percentage of the total debt liability held.

For the purposes of Section 2.2.e.(2)(b)(iv), persons and business concerns holding debt liability in disclosed business concerns and disclosed pursuant to Section 2.2.e.(2)(b)(iv) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

- f. Applicant's Interest in Waste Business Concerns. For each business concern that collects, transports, treats, processes, stores or disposes of nonhazardous solid waste or hazardous waste in which the applicant holds an equity interest of five percent (5%) or more, such business concern's:
 - (1) Full name;
 - (2) Business address;
 - (3) Date of establishment;
 - (4) Federal employer identification number;
 - (5) Business telephone number.
- g. Applicant's Business Experience and Credentials.
 - (1) If the applicant is a person other than a business concern, a description of the business experience and credentials of the applicant, including any past or present permits or licenses, possessed by the applicant, for the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.
 - (2) If the applicant is a business concern, a description of the business experience and credentials of the applicant's key employee(s), officers, directors and/or partners, including any past or present permits or licenses, possessed by such persons for the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.
- h. History of Related Business Concerns.

- (1) If the applicant is seeking a permit to operate and/or construct a commercial nonhazardous solid waste management facility and either the applicant or a parent business concern has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste in Mississippi for fewer than five (5) years preceding the filing of its application or if the applicant is seeking a permit to operate and/or construct a commercial hazardous waste management facility and either the applicant or a parent business concern has engaged in the commercial treating, processing, storage or disposal of hazardous waste in Mississippi for fewer than five (5) years preceding the filing of its application, the following information about each sister business concern of applicant that has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste or hazardous waste within such five-year period:

- (a) Full name;
- (b) Business address;
- (c) Date of establishment;
- (d) Federal employer identification number;
- (e) Business telephone number.

- (2) If neither the applicant nor its parent business concern(s) nor any sister business concern of the applicant has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period preceding the filing of its application, provide the following information about any sister business concerns that, within the five-year period preceding the filing of applicant's application, have been the subjects of any enforcement actions:

- (a) Full name;
- (b) Business address;
- (c) Date of establishment;
- (d) Federal employer identification number;
- (e) Business telephone number;
- (f) Listing and explanation of each such enforcement action [include the name and address of the regulatory agency involved].

- i. Environmental History. Any person required to be disclosed in the disclosure statement, except a person required to be disclosed pursuant to Section 2.2(h)(2) of these Regulations, shall provide a listing and explanation of any:

- (1) notices of violation;
- (2) prosecutions;
- (3) administrative orders (whether by consent or

- otherwise);
- (4) license or permit revocations or suspensions; and,
 - (5) enforcement actions by any state or federal authority within the five-year period immediately preceding the filing of the application, which are pending or have concluded in a finding of violation or entry of a consent agreement regarding any allegation of the civil or criminal violation of any law, regulation or requirement related to the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste [include the name and address of the regulatory agency involved].
- j. Felony Information. For each person required to be disclosed in the disclosure statement, an itemized list of any and all final convictions of and pleas of guilty or nolo contendere to any crime punishable as a felony in any jurisdiction within the five-year period immediately preceding the filing of the application [include the name of the jurisdiction in which the conviction(s) and/or plea(s) occurred].
- k. Nonhazardous Solid Waste or Hazardous Waste Agency Information.
- (1) A listing of each agency outside of Mississippi that has or has had regulatory responsibility over the applicant regarding the applicant's treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application.
 - (2) A listing of each agency outside of Mississippi that has or has had regulatory responsibility over a parent, subsidiary or sister business concern of applicant regarding such parent, subsidiary or sister business concern's treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application. This disclosure need be made concerning sister business concerns only if such sister business concern is required to be disclosed under section 2.2(h), supra.
- l. Other Related Information. Applicant shall provide any other information the Mississippi Environmental Quality Permit Board may require prior to making its decision concerning the issuance, reissuance or transfer of a permit.

2.3. Execution of Disclosure Statements.

- a. Disclosure statements shall be signed and sworn to or affirmed by the applicant, as follows:

- (1) If the applicant is a corporation, by at least one of the following: its president, its chairman of the board, any other chief executive officer thereof, its secretary, its treasurer or other officer or employee of the corporation authorized by the applicant to execute the disclosure statement on behalf of the corporation. The Department or the Permit Board may require an applicant to present proof of such person's authority to execute the disclosure statement on behalf of the corporation.
- (2) If the applicant is a partnership [except a limited partnership], by at least one of its partners who has authority to execute the disclosure statement on behalf of the partnership.
- (3) If the applicant is a limited partnership, by at least one of its general partners who has authority to execute the disclosure statement on behalf of the limited partnership.
- (4) If the applicant is any other business concern, by its chief executive officer, its secretary or its treasurer.
- (5) If the applicant is an individual, by the individual himself or herself.

b. All signatures on original disclosure statements shall be dated and signed in ink and sworn before a notary public or other lawful officer authorized to administer oaths. Signatures on copies may be photocopied, typed, stamped or printed. The name and address of the signatory shall be typed, stamped or printed beneath each signature.

2.4. Changes in Circumstances Relevant to Disclosure Statement. If, while applicant is awaiting action upon a permit application [within the scope of these Regulations] by the Permit Board, a change in circumstances renders any information provided in a disclosure statement incorrect, misleading or otherwise inaccurate, applicant shall advise the Department within thirty (30) days and supplement the disclosure statement accordingly within sixty (60) days of any such change in circumstances. Failure to do so may be considered by the Permit Board to be a misrepresentation or concealment of such change in circumstances.

2.5. Method of Reporting Changes in Circumstances. Changes in circumstances shall be reported on amendment forms provided by the Department. The amendment form(s) shall be signed and sworn to or affirmed by the same person(s) and in the same manner as authorized by Section 2.3 above for the disclosure statement.

- 2.6. Department May Require the Filing of a New Disclosure Statement. Where multiple changes in circumstances are to be reported, the Department, in its discretion, may require the filing of a new disclosure statement.
- 2.7. Staff May Call on Other State Agencies in Reviewing Disclosure Statements. The staff is authorized to call on criminal investigatory and prosecutorial authorities and other agencies of the state to assist in the review and investigation of disclosure statements and applicants.
- 2.8. Annual Update of Disclosure Statement. Following issuance, reissuance or transfer of a permit within the scope of these Regulations, the person to whom the permit was issued shall file an updated disclosure statement annually on the anniversary of the permit issuance date as stated on the permit. If there has been no such changes since the most recent disclosure statement filing or updating, the filing of an additional disclosure statement will not be required if said person, no later than the anniversary of the permit issuance date, indicates by means of a letter to the Head of the Office of Pollution Control that no such changes have occurred.
- 2.9. Failure to Annually Update Disclosure Statement. Failure of a holder of a permit within the scope of these Regulations to annually update the disclosure statement originally filed with the issuance, reissuance or transfer of such permit shall be grounds for revocation of the permit by the Permit Board.
- 2.10. Disclosure Statements to be Public Records. Disclosure statements and the information contained there in, except in so far as such may be accorded confidentiality pursuant to Mississippi Code Annotated section 17-17-27(6) (Supp. 1993) or pursuant to other laws of the state of Mississippi, are public records within the meaning of Mississippi Code Annotated section 25-61-5 (Supp. 1993). Applicants shall comply with the requirements of said Section 17-17-27(6) to preserve confidentiality claims.
- 2.11. Additional Information. The Permit Board, the Staff or both may require the applicant to submit additional information in the disclosure statement beyond what is specifically required by these Regulations. For purposes of these disclosure regulations, such additional information is limited to items which are specifically requested, and individuals as well as business concerns which are disclosed pursuant to this provision are not subject to any of the earlier disclosure provisions unless expressly indicated in the

request by the Permit Board and/or the Staff. Therefore, a business concern revealed pursuant to this provision would not be a "disclosed business concern" as referred to earlier in these regulations.

3.1. Grounds for Refusal to Issue, Reissue or Transfer A Permit. The Permit Board may refuse to issue, reissue or transfer a permit if the Permit Board finds that the applicant or any person required to be listed in the disclosure statement:

- a. has misrepresented or concealed any material fact in the disclosure statement;
- b. has obtained a permit from the Permit Board by misrepresentation or concealment of a material fact;
- c. has been convicted of a felony or pleaded guilty or nolo contendere to a felony involving any federal or state laws, including but not limited to environmental laws, within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit;
- d. has habitually violated any provisions of federal or state environmental laws, rules or regulations related to the management of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit, or, if neither the applicant nor any person required to be listed in the disclosure statement has worked or done business in the nonhazardous solid waste or hazardous waste fields within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit, has habitually violated any other provisions of federal or state environmental law, rules or regulations within the same five year period;
- e. has been adjudicated in contempt of an order of any court enforcing any state or federal environmental laws within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit;
- f. has been convicted of or pleaded guilty or nolo contendere to bribery or attempting to bribe a public officer or employee of the federal government or of any state or local government in the United States in the public officer's or employee's official capacity within the five-year period

immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit; or

- g. has been convicted of or pleaded guilty or nolo contendere to collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit.

3.2. Consideration of Facts and Mitigating Circumstances. In determining whether to issue, reissue or transfer a permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility, the Permit Board shall consider the facts and any mitigating factors, including:

- a. the relevance of the offense to the business for which a permit is sought or the nature and responsibilities of the position which a convicted individual would hold;
- b. the nature and seriousness of the offense;
- c. the circumstances under which the offense occurred;
- d. the date of the offense; and
- e. the ownership and management structure of the applicant at the time of the offense.

3.3. Evidence of Rehabilitation. The Permit Board shall allow the applicant to submit evidence of rehabilitation and shall consider the applicant's efforts to prevent recurrence of the unlawful activity in its determination under Section 3.1 of these Regulations.

- a. Items to be considered by the Permit Board shall include:
 - (1) the applicant's record and history of implementing successful corrective actions undertaken to prevent or minimize the likelihood of recurrence of the offense;
 - (2) whether the offense was an isolated event or repeated incident (i.e., part of a pattern of activity);

- (3) whether the applicant cooperated with governmental bodies during investigations or voluntarily provided information regarding any offense under consideration;
- (4) the number and types of permits held by applicant and the experience of applicant in conducting its business;
- (5) implementation by the applicant of formal policies, training programs or management controls to substantially minimize or prevent the occurrence of future violations or unlawful activities;
- (6) implementation by the applicant of an environmental compliance audit program to assess and monitor compliance with environmental laws, rules, regulations and permit conditions; and
- (7) the applicant's discharge of individuals or severance of the interest of or affiliation with responsible parties who would otherwise cause the Permit Board to deny a permit.

b. If the Permit Board finds pursuant to this section that mitigating factors exist or that the applicant has demonstrated rehabilitation, the Permit Board may issue, reissue or transfer the permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility.

3.4. **Reconsideration of Permit Based on Change in Circumstances.** If, following issuance, reissuance or transfer of a permit, a change in circumstances is reported by the permit holder, the Permit Board may reconsider such action after notice to the applicant and the opportunity for a hearing in accordance with Miss. Code Ann. section 49-17-29 (4) (Supp. 1993) and, if it deems appropriate, revoke or modify the permit.

4.1. **Regulations Severable.** Each of these Regulations promulgated under the Act and each part or subpart of said Regulations are intended by the Commission to be severable such that should any Regulation or any part or subpart of any Regulation be held to be invalid by any court, such invalidity shall not affect the validity of the remaining parts and/or subparts of these Regulations.

- 5.1. Administrative Appeals. Any applicant denied the issuance, reissuance or transfer of a permit because of information disclosed pursuant to these Regulations, or any other interested party aggrieved by actions of the Permit Board related thereto, may request a formal hearing concerning such action before the Permit Board as provided in Miss. Code Ann. Section 49-17-29 (4) (Supp. 1993).
- 5.2 The Commission on Environmental Quality may waive the filing of disclosure information related to applicants for permits involving the storage, treatment, processing or disposal of nonhazardous solid waste only if the information regards the holder of less than five percent (5%) of the equity of the applicant or the holder of less than five percent (5%) of the equity in any business concern which holds equity in the applicant.
- a. In order to apply for the waiver, the applicant shall file a sworn petition requesting such waiver and allege either:
- (1) that the information cannot be ascertained after reasonable and diligent search and inquiry, setting forth in the petition the facts and circumstances alleged to constitute the reasonable and diligent search and inquiry to obtain the information; or
 - (2) that the information required is not relevant or material, setting forth in the petition the facts and circumstances in support of the irrelevancy or immateriality of the information.
- b. The Commission may waive the filing of such information if the Commission finds and declares such information either:
- (1) to be unobtainable after reasonable and diligent search and inquiry; or
 - (2) to be irrelevant or immaterial to the review of the application; and
 - (3) unnecessary to the discharge of its responsibilities with regard to such permit as set forth by law.
- c. Any applicant, other person or interested party, aggrieved by an Order of the Commission waiving the filing of such information may appeal the decision of the Commission in the manner provided in Miss. Code Ann. Section 49-17-41 (1972), as amended.

6.1. Effective Date. The original Regulations were adopted by the Mississippi Commission on Environmental Quality on October 24, 1991. Notwithstanding anything to the contrary, the initial amendments to the original Regulations included herein were adopted on December 17, 1992, and became effective on January 18, 1993. The amendments included herein were adopted on July 28, 1994, and shall become effective on August 30, 1994.